

EXHIBIT 44

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 APPLE INC., a California)
6 Corporation,)
7 Plaintiff,)
8 vs.) No. 11-CV-01846-LHK
9 SAMSUNG ELECTRONICS CO., LTD,)
10 a Korean business entity;)
11 SAMSUNG ELECTRONICS AMERICA,)
12 INC., a New York corporation;)
13 SAMSUNG TELECOMMUNICATIONS)
14 AMERICA, LLC, a Delaware)
15 limited liability company,)
16 Defendants.)
17)
18

19 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
20 VIDEOTAPED DEPOSITION OF EUGENE WHANG
21 THURSDAY, OCTOBER 27, 2011
22
23

24 REPORTED BY:
25 JANIS JENNINGS, CSR 3942, CLR, CCRR

1 exactly if that -- if this button only just took the
2 user back home; but, for instance now, you know, the
3 home button activates CRE or you can -- you know, if
4 you double click it, it will activate iTunes. It
5 has a lot of other functions as well, but I don't
6 recall when those other functions were mapped onto
7 the home button as well.

8 BY MS. NEILL:

9 Q. So looking now at the large rectangular
10 feature that's indicated with dashed lines on this
11 drawing on the front here, which may be referred to
12 as a "screen," what is the function of that?

13 MR. HUNG: Objection. Assumes facts.
14 Calls for a legal conclusion.

15 THE WITNESS: Are you talking about this
16 dashed line here (indicating)?

17 BY MS. NEILL:

18 Q. Yes.

19 A. I mean, again, I'm not an expert at
20 reading patent drawings, but to me as a designer
21 this would indicate where the active area of a
22 screen would be.

23 Q. And you'll notice that the device appears
24 to have four rounded corners.

25 MR. HUNG: Objection. The document speaks

1 for itself. Calls for a legal conclusion.

2 You can answer.

3 THE WITNESS: Yeah, you can -- I guess you
4 can refer to them as "rounded corners," but we would
5 just kind of refer to this entire thing as its
6 profile.

7 BY MS. NEILL:

8 Q. So how would you refer to the corners of
9 this device?

10 A. We could refer to them as "corner
11 splines." Spline, s-p-l-i-n-e.

12 Q. Was there any reason -- or strike that.
13 Is there any reason that the corners are
14 rounded?

15 MR. HUNG: Objection. Calls for a legal
16 conclusion. Calls for an expert opinion.

17 THE WITNESS: I can't recall the specifics
18 of any particular reason, but the rounded corners
19 can serve many purposes.

20 BY MS. NEILL:

21 Q. Can you name --

22 A. Or the rounded splines.

23 Q. Okay. Can you name some of the purposes
24 that the rounded splines might serve?

25 A. Yeah. The corner splines and the size

1 that they are can make the product and the shape
2 appear more friendly. The -- what happens with the
3 rear surface also is somewhat in tune with -- and
4 governed by what those corner splines are.

5 Because the surface on the back and the
6 way it kind of wraps around is highly sensitive to
7 what size those actual like radiuses would be so it
8 affects the rear surface as well. It can be more
9 comfortable against the ear or in the hands. It's
10 also visually more lightweight. Yeah, those are
11 some of the examples.

12 Q. Okay. Can you think of any other specific
13 reasons?

14 A. I mean, we just -- I think we arrived
15 there because we thought it looked good and we felt
16 happy with the appearance.

17 MR. HUNG: We're just going to get him
18 water. You can go ahead. Erika will get it.

19 BY MS. NEILL:

20 Q. So the next feature I would like to direct
21 your attention to is sort of the oval or elongated,
22 maybe pill-shaped that's above that -- what we were
23 earlier referring to as the screen shape.

24 A. Okay.

25 Q. What is that?

1 MR. HUNG: Objection. Calls for a
2 legal conclusion. Calls for an expert opinion.
3 Foundation.

4 THE WITNESS: It appears to be a receiver
5 opening.

6 BY MS. NEILL:

7 Q. And what kind of receiver?

8 A. A receiver is just kind of what we call
9 it. It's, you know, like the opening for you to
10 hear another person's voice or whatever sound may
11 be coming out of there when you're on a phone call.

12 Q. And is there any reason why it's
13 positioned where it is on the overall device?

14 MR. HUNG: Objection. Foundation.
15 Calls for a legal conclusion. Calls for an expert
16 opinion.

17 THE WITNESS: We -- you know, we tried it
18 in many positions and this is where we felt that it
19 just seems to look most comfortable.

20 BY MS. NEILL:

21 Q. And when you were designing this -- or
22 coming up with this design, was there ever any
23 feedback or information that you received from
24 engineers?

25 A. Just in general with the product in

1 Q. Can you explain what those are.

2 A. Yep. The far left one seems to be some
3 kind of power connector. Beside that is a
4 FireWire A, I believe, and beside that is a USB and
5 then an audio jack.

6 Q. And was that prototype ever a working
7 prototype, to your knowledge?

8 MR. HUNG: Objection. Vague.

9 THE WITNESS: To my knowledge, no.

10 BY MS. NEILL:

11 Q. And if you could pick up the other one,
12 please, and do the same, showing it to the camera.

13 Thank you.

14 And are there any ports or inputs on that
15 device?

16 A. It seems like two.

17 Q. Okay. Can you describe them for me,
18 please.

19 A. Yeah. The top right seems to be a
20 headphone jack or audio in/out, and on the very
21 bottom is a 30-pin.

22 Q. And to your knowledge, was that a working
23 prototype that you're holding?

24 MR. HUNG: Objection. Vague.

25 THE WITNESS: To my -- to my knowledge,

1 no.

2 BY MS. NEILL:

3 Q. And do you know if there was ever a
4 working Q79 prototype of -- that reflect either of
5 the designs shown in front of you?

6 A. I can't recall.

7 MR. HUNG: Objection. Vague.

8 BY MS. NEILL:

9 Q. Do you know when the first working tablet
10 prototype was made?

11 MR. HUNG: Foundation. Vague.

12 THE WITNESS: I don't know.

13 BY MS. NEILL:

14 Q. Do you have any approximation?

15 A. No.

16 Q. Do you know if it was before or after the
17 time that these prototypes were made?

18 MR. HUNG: Same objections.

19 THE WITNESS: I don't recall.

20 BY MS. NEILL:

21 Q. All right. So what I am going to give you
22 now is United States Design Patent 504,889, which
23 was previously marked as Exhibit 8.

24 Take a look at the patent.

25 A. Okay.

1 Q. Can you please turn to figure 2.

2 And you'll see there on figure 2 along one
3 edge of the device there seems to be a small, round
4 port.

5 A. Yep. There seems to be a little dotted --
6 some kind dotted line running around.

7 Q. Uh-huh. Okay. And then on the other edge
8 of the device that you can see in that same drawing,
9 there appears to be a rectangular type of port.

10 A. Yes.

11 Q. Okay. And can you please refer to
12 figure 6 as well.

13 And I'm sorry. If you look at the first
14 page of the patent, it indicates that figure 6 is a
15 right-side view.

16 A. Okay.

17 Q. And can you see, again, the round feature
18 on figure 6?

19 A. Yes.

20 Q. And on figure 8 -- which is a lower side
21 view, according to the first page of the patent --
22 can you see that there is a rectangular feature
23 along that edge?

24 A. Yes.

25 Q. Is the design depicted in this patent

1 reflected in one of the two devices in front of you?

2 MR. HUNG: Objection. Vague. Foundation.
3 Calls for a legal conclusion. Calls for an expert
4 opinion.

5 THE WITNESS: There doesn't seem to be
6 enough information in the drawings to -- for me to
7 say if it's -- if it's representative of one of
8 these. There are some similarities, but, you know,
9 there's -- there's also differences.

10 BY MS. NEILL:

11 Q. So the -- let's just take the one that is
12 closest to you, the mockup that is sitting closest
13 to you, the prototype.

14 A. Okay.

15 Q. Is that different from the design that is
16 pictured in these drawings?

17 MR. HUNG: Objection. Vague.

18 THE WITNESS: To me, yes, they appear to
19 be different.

20 BY MS. NEILL:

21 Q. What differences do you notice?

22 A. Well, in figure 1 and from my view, in the
23 mockup there's a perimeter kind of vent detail.
24 That isn't depicted here, from what I can see.

25 Also, with this drawing, I can't really

1 tell what the -- what the surface is -- what the
2 surface quality or the finish or what the material
3 intent is, so I can't -- I can't really point to any
4 other kind of details.

5 Q. If you will take a look for a second at
6 figure 2, please.

7 A. Okay.

8 Q. You will see in figure 2, which is a
9 bottom perspective view, that there are a series of
10 diagonal lines.

11 A. Yes.

12 Q. What do those represent?

13 MR. HUNG: Objection. Foundation.

14 THE WITNESS: I don't -- I don't know.

15 BY MS. NEILL:

16 Q. If you please turn to figure 4, which is a
17 bottom view. Are those lines present?

18 A. Of the same lines as in the last figure?

19 Q. Yes. As in figure 2.

20 A. It doesn't appear -- they don't appear to
21 be there.

22 Q. Do you know why they're not there?

23 A. No.

24 Q. And going back to the lines that are in
25 figure 2, do you have under- -- any understanding as

1 to what those lines may reflect?

2 A. No.

3 Q. In figure 1, do you also see a series of
4 diagonal lines?

5 A. Yes.

6 Q. Do you have any understanding as to what
7 those lines may reflect?

8 A. No, I don't.

9 Q. In figure 1 again, to bring your attention
10 to that, you can see around the front of the device
11 there appears to be a line, basically the perimeter
12 of the front, that appears to be thicker along
13 the -- the way I'm looking at it, it would be the
14 left edge and the bottom edge.

15 A. Okay.

16 Q. Do you see that line?

17 A. I mean, I see a line that gets -- that
18 starts off around here as one thickness, and then
19 down on the bottom edge, it kind of goes thicker.

20 Q. Uh-huh.

21 A. Yep.

22 Q. Do you think it's possible that that line
23 depicts the vent?

24 MR. HUNG: Objection. Calls for
25 speculation. Calls for a legal conclusion. Calls

1 for an expert opinion.

2 THE WITNESS: To me, when I see this
3 drawing, I -- I don't see the vent detail.

4 BY MS. NEILL:

5 Q. Do you have any understanding at all of
6 what the thicker line might represent?

7 A. No, I don't.

8 Q. And turning to figure 9, this depicts a
9 person holding the device.

10 A. Okay.

11 Q. Along the top edge of the device, the
12 farthest away from the person who is holding it, do
13 you see that that edge appears to be wedge-shaped?

14 MR. HUNG: Objection. The document speaks
15 for itself.

16 THE WITNESS: I don't see that.

17 BY MS. NEILL:

18 Q. Do you see that the -- the top edge
19 appears to taper towards the -- as the person is
20 holding it towards the left edge of the top?

21 MR. HUNG: Objection. The document speaks
22 for itself.

23 THE WITNESS: Do you think you can just
24 kind of point to --

25 BY MS. NEILL:

1 Q. So I'm pointing to the top edge away --
2 farthest away from him --

3 A. Okay.

4 Q. -- and that it tapers along this line --

5 A. Yeah. Yeah.

6 Q. -- so that this area appears as a wedge.

7 A. Right.

8 MR. HUNG: Objection. The document speaks
9 for itself. Assumes facts.

10 BY MS. NEILL:

11 Q. Do you have any understanding of why that
12 appears to be wedge-shaped?

13 MR. HUNG: Objection. Assumes facts.

14 THE WITNESS: I don't. To me, it just
15 looks like whoever drew it just got their
16 perspective wrong.

17 BY MS. NEILL:

18 Q. And also along the front perimeter of the
19 front face of the device, there appears to be a
20 darker line, or heavier line.

21 A. Yeah, there appears to be a slightly
22 thicker line.

23 Q. And do you have any understanding of what
24 that represents?

25 A. No.

1 Q. And just -- if will turn to the first page
2 of this patent, you will see that you are listed as
3 an inventor on this patent.

4 A. Yes.

5 Q. And what did you contribute to the design
6 depicted in this patent?

7 A. Like I said before, just, you know --
8 specifically it's hard to pick out any kind of
9 detail or specific thing. You know, we all worked
10 on this together, so, you know, we all kind of
11 equally contributed to the design.

12 Q. And do you know when this design was first
13 conceived of?

14 A. No, I don't.

15 Q. Okay. And do you know when it was first
16 put down in a written form?

17 A. No.

18 Q. Did you create any of the figures in this
19 patent?

20 A. No, I didn't.

21 Q. Do you know who did?

22 A. No, I do not.

23 Q. Did you ever meet with anyone regarding
24 whether or not you were an inventor of this patent?

25 A. I can't recall.